

**GOVERNMENT OF PUERTO RICO
PUBLIC SERVICE REGULATORY BOARD
PUERTO RICO ENERGY BUREAU**

NEPR Received: Nov 6, 2023 8:54 PM

IN RE:

REVIEW OF LUMA’S INITIAL BUDGET

CASE NO.: NEPR-MI-2021-0004

SUBJECT: Motion Requesting Extension of Time to Comply with Resolution and Order dated September 22, 2023

**MOTION REQUESTING EXTENSION OF TIME TO COMPLY WITH RESOLUTION
AND ORDER DATED SEPTEMBER 22, 2023**

TO THE HONORABLE PUERTO RICO ENERGY BUREAU:

COMES NOW GENERA PR LLC (“Genera”), as agent of the Puerto Rico Electric Power Authority (“PREPA”),¹ through its counsels of record, and respectfully state and request the following:

1. On May 16, 2023, LUMA² filed a document with the Energy Bureau of the Puerto Rico Service Regulatory Board (“Energy Bureau”) titled *Submission of Consolidated Annual Budgets for Fiscal Year 2024 and Proposed Annual T&D Projections Through Fiscal Year 2026* (“May 16th Motion”), in which LUMA submitted the Proposed Consolidated FY24 Budget, composed of the proposed T&D Budgets developed by LUMA, the proposed GenCo Budgets revised by Genera on behalf of PREPA for the PREPA subsidiary GenCo LLC, and the proposed budget developed by PREPA for its holding company, HoldCo, and its subsidiaries PREPA HydroCo LLC and PREPA PropertyCo LLC.

¹ Pursuant to the *Puerto Rico Thermal Generation Facilities Operation and Maintenance Agreement* (“LGA OMA”), dated January 24, 2023, executed by and among PREPA, Genera, and the Puerto Rico Public-Private Partnerships Authority (“P3 Authority”), Genera is the sole operator and administrator of the Legacy Generation Assets (as defined in the LGA OMA) and the sole entity authorized to represent PREPA before PREB with respect to any matter related to the performance of any of the O&M Services provided by Genera under the LGA OMA.

² LUMA Energy, LLC and LUMA Energy ServCo, LLC (jointly referred to as “LUMA”).

2. On June 25, 2023, the Energy Bureau issued a Resolution and Order titled *Determination on the FY24 Annual Budgets for the Electric Utility System – LUMA, Genera, and PREPA*. Through this order, the Energy Bureau amended the Proposed Consolidated FY24 Budget submitted by LUMA and approved the revised budgets, provided the orders included in the Resolution and Order were complied with. The June 25th Order, amongst other things, reduced Genera’s proposed labor operating expenses budget for FY2024 from \$79.5 MM to \$55.03 MM.

3. Subsequently, on June 30, 2023, Genera filed a document titled *Urgent Motion in Compliance with Resolution and Order of June 25, 2023, and for Partial Reconsideration* (“Genera’s June 30th Request for Partial Reconsideration”), requesting that the Energy Bureau reconsider the determinations made in the June 25th Order. This was in accordance with the mandates of the June 25th Order, which required Genera to “ensure that the legacy generation plants are adequately staffed to ensure reliable and efficient operations and to promptly report to any staffing shortages or difficulties in maintaining adequate personnel to staff the plants.”³

4. On June 30, 2023, the Energy Bureau issued a Resolution and Order titled *Resolution pertaining Motion for Reconsideration of the June 25 Resolution and Order on the Determination of the FY24 Annual Budgets for the Electric Utility System - LUMA, Genera, and PREPA, filed by the Puerto Rico Electric Power Authority and Urgent Motion in Compliance with Resolution and Order of June 25, 2023 and for Partial Reconsideration, filed by Genera PR, LLC*, through which it stated that it would not consider Genera’s June 30th Request for Partial Reconsideration because its submission did not comply with certain provisions of the T&D OMA.⁴

³ See page 19 of the June 25th Order.

⁴ *Puerto Rico Transmission and Distribution System Operation and Maintenance Agreement* (“T&D OMA”), dated June 22, 2020, executed by and among PREPA, P3 Authority, and LUMA.

5. On June 30, 2023, LUMA filed a document titled *Submission of Motions for Reconsideration by PREPA and Genera and Notice of Intent to Request Reconsideration of Resolution and Order of June 25, 2023* (“LUMA’s June 30th Motion”), through which LUMA submitted Motions for Reconsideration of the Energy Bureau’s FY2024 Budget Determination on behalf of PREPA and Genera and provided notice of its intention to request reconsideration on its behalf.

6. On September 22, 2023, the Energy Bureau issued a Resolution and Order titled *Determination on the Request for Partial Revision on the FY 2023 Annual Budgets by LUMA, GENERA, and PREPA* (“September 22nd Resolution”), addressing the requests for reconsideration submitted by LUMA, Genera, and PREPA in response to the Energy Bureau’s June 25th Order. Pertinent to this Motion, the September 22nd Resolution denied Genera's June 30th Partial Request for Reconsideration regarding the reduction of Genera’s proposed labor expenses budget for FY2024 and, among other things, ordered Genera to (i) submit, within 30 days of issuing the September 22nd Resolution, with the deadline being October 22, 2023, a detailed Corrective Action Plan outlining the steps Genera intends to take to align its labor costs with the approved budgets, including a timeline for each action, responsible parties, and expected outcomes; and (ii) submit a detailed report on potential labor reimbursements from Federally Funded Projects and their allocation to supplement the labor budget, with the submission deadline being today, November 6, 2023.

7. On October 30, 2023, Genera filed a document titled *Motion to Submit Corrective Action Plan in Compliance with Resolution and Order dated September 22, 2023* (“October 30th Motion”), thereby submitting a Corrective Action Plan which outlined a series of actions that Genera committed to completing within a specific timeline, including presenting for the Energy

Bureau's approval the proposed reappropriations within the FY24 Certified GenCo budget by November 6, 2023.

8. Despite Genera's best efforts, and due to health reasons, the management leaders required to sign-off on the final submittals to the Energy Bureau were not available to approve the proposed reappropriations before the November 6, 2023, deadline, rendering Genera unable to comply with the Corrective Action Plan timeline. For this reason, Genera very respectfully requests a brief, one-day extension to submit the pending information.

9. Additionally, Genera has been diligently analyzing and reviewing potential labor reimbursements from Federally Funded Projects and the possibility of supplementing the labor budget in a responsible manner, to provide a response to the Energy Bureau. However, Genera informs the Energy Bureau that it will require an extension of time to provide the requested information. Genera respectfully requests a one-week extension, with the new deadline set for November 13, 2023, for the submission of the Federally Funded Projects Labor Reimbursement Projections report.

10. Genera respectfully informs the Energy Bureau that these extensions are requested in good faith and solely to enable comprehensive compliance with the September 22nd Resolution. Genera has consistently made all necessary efforts to comply with the Energy Bureau's September 22nd Resolution, as evidenced by the submission of its Corrective Action Plan on October 30, 2023.

11. Genera also respectfully requests that the Energy Bureau holds in abeyance any determination regarding compliance with the approved budgets until Genera completes and submits Item 6 of the Corrective Action Plan.

WHEREFORE, Genera respectfully requests that this Honorable Energy Bureau **take notice** of the above for all purposes and **grant** Genera (i) a brief, one-day extension of time to

submit the pending information pursuant to Item 5 of the Corrective Action Plan and (ii) a one-week extension, until November 13, 2023, to submit the Federally Funded Projects Labor Reimbursement Projections report.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 6th day of November 2023.

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CERTIFICATE OF SERVICE

We hereby certify that a true and accurate copy of this motion was filed with the Office of the Clerk of the Energy Bureau using its Electronic Filing System and that we will send an electronic copy of this motion to PREPA, through Lionel Santa, at lionel.senta@prepa.pr.gov; and to LUMA, through Margarita Mercado Echegaray, at margarita.mercado@us.dlapiper.com; and Ana Margarita Rodríguez Rivera, at ana.rodriguezrivera@us.dlapiper.com.

In San Juan, Puerto Rico, this 6th day of November 2023

/s/ Alejandro López Rodríguez
Alejandro López Rodríguez